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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/521,618	03/08/2000	Marc Jan Rene Leblans	07619-0005	1556
27777	7590	05/30/2003		
AUDLEY A. CIAMPORCERO JR. JOHNSON & JOHNSON ONE JOHNSON & JOHNSON PLAZA NEW BRUNSWICK, NJ 08933-7003			EXAMINER SPEARS, ERIC J	
			ART UNIT 2878	PAPER NUMBER
				DATE MAILED: 05/30/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. <u>09/521,618</u>	Applicant(s) LEBLANS ET AL.
	Examiner Eric J Spears	Art Unit 2878

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 17 April 2003.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 5,6,21,51 and 52 is/are pending in the application.
 - 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) 51 is/are allowed.
- 6) Claim(s) 5,6,21 and 52 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) The proposed drawing correction filed on _____ is: a) approved b) disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.
- 12) The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
 - a) The translation of the foreign language provisional application has been received.
- 15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>18</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Prosecution on the merits of this application is reopened on claims 5, 6, 21, 51, and 52 considered unpatentable for the reasons indicated below: See rejection below based on references newly submitted by Applicant.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 5, 6, 21, and 52 rejected under 35 U.S.C. 102(b) as being anticipated by Sato et al. (5,530,237).

Regarding Claims 5, 6, and 21, Sato teaches an apparatus for automatically focusing a microscope comprising, an objective lens 2, an illumination beam source 10 emitting visible light, an imaging lens 3, an autofocus light beam source emitting infrared light 17, a beamsplitter 7, a detection system lens 18, and an autofocus detecting device comprising, sensor 22, an iris 21, an auxiliary beam splitter 19, a auxiliary light sensor 20, and a focusing correction system which determines the displacement of the image plane from a preferred reference plane (Col. 5, lines 24-27; Col. 6, lines 53-59) (See also Fig. 1).

Regarding Claim 52, Sato teaches a microscope comprising, a plurality of lenses 2, 3, a probe arm 1, a support 25, an object S, an optical output device 5, wherein a main optical axis is unfolded (See Fig. 1).

Allowable Subject Matter

Claim 51 is allowed.

The following is an examiner's statement of reasons for allowance:

Regarding Claim 51, the prior art of record fails to teach or reasonably suggest a microscope for viewing an object plane wherein, in addition to the other related features of the claim, the object is placed as recited in Claim 51, lines 14-16.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Eric Spears whose telephone number is (703) 306-0033. The examiner can normally be reached on Monday-Friday from 10:00am to 6:30pm.

Art Unit: 2878

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dave Porta can be reached on (703) 308-4852. The fax phone number for the organization where this application or proceeding is assigned is (703) 308-7724.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0956.


STEPHANIE BALL
PRIMARY EXAMINER

EJS
05/21/03